



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

0000015

JUL 09 1996

REPLY TO THE ATTENTION OF

MEMORANDUM

SUBJECT: Response to Affidavits of Hewings and Baudendistel
FROM: Brad Bradley, RPM BB
TO: NL Industries Site Administrative Record

U.S. EPA is including in the Administrative Record two affidavits prepared on behalf of the City of Granite City. This memorandum is intended to respond to the positions taken in the affidavit of Geoffrey J.D. Hewings and the affidavit of William Baudendistel.

U.S. EPA's Response to the Hewings Affidavit

Hewings was retained by the defendants in this case and Granite City to assess the economic impact of U.S. EPA's remedial actions on the City of Granite City. According to Hewings, his opinion is based upon historical research and a survey of residents and businesses in Granite City. Despite repeated requests by U.S. EPA for the information underlying the survey conducted by Hewings (i.e. questionnaires, location of residents and businesses, etc.), no information was provided by Granite City. See attached requests. Consequently, for purposes of this response, U.S. EPA is assuming that the study Hewings refers to in his affidavit is the same study reflected in his report which was attached to Granite City's comments and is included in the first Supplement to the Administrative Record, No. 365.

Hewings' position is that the remedy being implemented in Granite City has and will continue to have an adverse impact on Granite City. In support of this contention, Hewings categorizes the negative impact into five areas. Those areas are: 1) U.S. EPA's actions have caused great confusion and uncertainty; 2) U.S. EPA's remedy has reduced property values; 3) increased traffic and congestion will have a devastating impact on business; 4) tax revenue will decrease due to lower property value and less business; and 5) the piecemeal approach will increase the existing uncertainty. U.S. EPA disagrees with all of Hewings opinions.

The Hewings report previously included in the administrative record appears to have been written in 1994, but relies mainly on

two public opinion surveys which were apparently conducted in 1992. The period in which the surveys were conducted was after the Record of Decision (ROD) was signed but before any remedial action began. This was a period when there was a high level of uncertainty. However, since this time there has been a series of public meetings and the citizens have been able to see the work in progress. The only apparent confusion that seems to exist today is the confusion by those people who wish to have their yards remediated and cannot understand why Granite City is opposed to that clean-up. This was apparent most recently at the availability sessions held in Granite City on June 24 and 25, 1996. The transcript of comments made at those sessions is included in this second Supplement to the Administrative Record. (See also, Transcripts of Public Meetings held on October 25 and 26, 1994 and Petition: "Stop Granite City Lawsuit Against U.S. EPA," first Supplement to the Administrative Record Nos. 356, 357 and 329).

It is now 1996, and since the current round of cleanup activities did not commence until 1995 and since cleanup activities of any kind did not occur until 1994, a survey of public sentiment from 1992 has little if any relevance to the actual impact of the current cleanup activities.

The people in the affected area of Granite City have had extensive education with respect to the dangers of lead from U.S. EPA, IEPA, IDPH, the City and local news coverage. There is also nothing in the Hewings report to suggest that his survey took into account that people in the affected area may and do have a heightened sense of the danger associated with lead contamination.

Hewings is of the opinion that U.S. EPA's remedy has reduced property values in Granite City. This is hard to believe. If anything has reduced property value in Granite City, it is the source that caused the lead contamination. Economic theory, as well as common sense, leads one to expect that homes whose values are depressed by the contaminated soil will rise in value once the contaminated soil is removed. In fact, U.S. EPA is now aware of one resident in neighboring Madison who was unable to secure financing as a result of her disclosure of lead contamination on her property. Her yard has now been cleaned and is back on the market. (See comment by Dorothy Holt, transcript from June 24, 1996 availability session, second Supplement to Administrative Record). U. S. EPA is not aware of any problems with the residential yards that have already been remediated. Those residents that have had there property cleaned seem to be extremely happy with the results. (See transcript from June 24 and 25, 1996 availability session and before and after pictures taken in Granite City, second Supplement to Administrative record).

Hewings' next states that the impact on business in Granite City will be devastating due to increased traffic. There is simply no evidence to suggest this to be the case. Granite City is host to several large industrial complexes, such as Granite City Steel. Consequently, it is not uncommon to have as many as one hundred trucks pass through downtown Granite City each day. (See, Department of Transportation, Average Daily Traffic Counts, first Supplement to Administrative Record No. 364). Furthermore, the majority of business in Granite City are not located within the remediation areas. Remediation has little to do with the downtown area. No downtown business properties require remediation, and the minor increase in traffic from cleanup will not have a significant impact on downtown business activity.

As explained above, U.S. EPA is convinced that there is no support for Hewings' opinion on the adverse impact on property values and business in Granite City. Therefore, there is no basis for his opinion that there is a corresponding effect on tax revenue. The goal of the cleanup in Granite City is to remediate contaminated property, not to revitalize the downtown business community. The remediation is intended to cause as little disruption as possible. The benefits of cleaning up property of residents who wish to have it done easily outweigh any temporary and minor inconveniences to Granite City.

Hewings' final opinion is that U.S. EPA's piecemeal approach to cleanup exacerbates the impacts he outlined. The fact that the cleanup has not proceeded as initially intended is due entirely to the actions of Granite City and the defendants in this case. Through litigation and the threat of litigation, U.S. EPA has been forced to take a piecemeal approach in order to avoid the potential for demobilization and drastically increased costs. Furthermore, because Granite City has refused access to the parkways in front of the houses that have been cleaned, U.S. EPA will have to return to those homes at a later date before they can be considered clean. Granite City and the defendants are the sole cause of the need to take what can be considered a piecemeal approach to cleanup.

Response to Affidavit of William Baudendistel

Baudendistel is the City Engineer for Granite City. In that capacity he is involved in Granite City's efforts to improve 16th Street in order to accommodate the large amount of truck traffic that travels through Granite City every day. Essentially Baudendistel's affidavit states that due to sample results taken from the proposed 16th Street expansion construction area, Granite City may incur increased costs associated with disposal of contaminated soils.

U.S. EPA has not been provided with the sample results referenced in the affidavit and therefore will not comment on

what type of waste those soils may be characterized as or what the appropriate level of cleanup would be if necessary. However, what Baudendistel seems to be implying is that if U.S. EPA were not in the vicinity, that Granite City would somehow be able to ignore the contamination if it does indeed exist.

U.S. EPA is not responsible for the presence of contamination along 16th Street. If there is contamination along 16th Street at the levels this affidavit seems to suggest, then this contamination must be addressed. Then residential soil cleanup value selected by U.S. EPA to be protective of residents is specifically for the residential yards, and would not necessarily apply to the 16th Street expansion or other non-residential uses in Granite City.

Baudendistel states that excavation may result in special or hazardous wastes. The criteria for hazardous waste is set forth in the Resource Conservation and Recovery Act (RCRA) 40 C.F.R. § 260 et seq. If the soils are in fact hazardous waste as defined by RCRA, then cleanup and disposal requirements of those wastes would be set forth in RCRA.

U.S. EPA cannot understand how the remedial activities being conducted in Granite City have any bearing on the 16th Street expansion project.